IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 19304 of 2001

Between:

Y.V.S.Krishna Murthy S/o.late Sri Sankara Somayajulu, Retired Joint Director of Agriculture, R/o.1-10-29, Ashok Nagar, Hyderabad.

..... PETITIONER

AND

1 The Commissioner & Director of Agriculture, Government of Andhra Pradesh Near Lal Bahadur Stadium, Hyderabad.
2 The Government of Andhra Pradesh, represented by its Principal Secretary to Government, Agriculture & Cooperation Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in issuing impugned proceedings ROC.No.I(2)/5327/95, Dt.29/06/1996 in so far as rejecting the monetary benefits to the petitioner on his notional promotions to the posts of Asst. Director of Agriculture, Dy.Director of Agriculture and Joint Director of Agriculture as illegal, arbitrary and violative of Art.14, 16 & 21 of Constitution of India and further declare the order in OA.No.3936/97, Dt.14/03/2001 as illegal, and set aside the same and further direct the respondents to release the monetary benefits to the petitioner in view of the promotions of the petitioner to the cadre of Asst. Oil Seeds Specialist vide GO.Ms.No.2099, Dt.27/06/1966 which is equivalent to the post of Asst. Director

of Agriculture and in view of further promotions as Dy.Director of Agriculture and Joint Director of Agriculture given to him and consequently revise the pension of the petitioner with all arrears with interest and pass such other order.

Counsel for the Petitioner: MR.M.VIJAY KUMAR

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

ORAL ORDER: (per GB.J.)

The Writ Petition is filed challenging the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.3936 of 1997, dated 14.3.2001.

2. The petitioner was initially appointed as Agricultural Officer in 1952 and when he was about to be promoted to the post of Assistant Director of Agriculture, he was sent on deputation to Agricultural University without taking any option from him. But, however, he was repatriated in the year 1982 to his parent Department and he submitted his option only to remain in the Government. Thereafter, he was retired from service on 30.8.1984. While so, the Government reviewed the situation in respect of pay fixation of Officers who were sent on deputation without their option and who came back to their parent Department and opted to remain in the Department and issued directions to grant them the notional benefits on par with their juniors in the Department. Accordingly the case of the petitioner was considered by the authorities and the Government issued G.O.Ms.No.19, dated 5.1.1985 promoting the petitioner to the post of Assistant Director of Agricultural from 11.9.1968. The Government further issued G.O.Ms.No.140, dated 17.3.1986 promoting the petitioner to the post of Deputy Director of Agriculture and also issued another G.O.Ms.No.375, dated 9.6.1993 promoting the petitioner to the post of Joint Director of Agriculture with effect from 30.8.1983. The grievance of the petitioner is that even though the notional promotion was given in accordance with the order passed by the Government, the physical monetary benefits were not released to him from 1.3.1979 as was directed in G.O.Ms.No.181, Food and Agriculture (AGRI.I) Department, dated 24.4.1984. The Tribunal, without considering all these aspects, dismissed the OA filed by him. Against the said dismissal order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that when the Government has clearly indicated that while giving notional promotion, monetary benefits shall be

given from 1.3.1979, there is no question of withholding such monetary benefits from 1.3.1979 till the date of retirement of the petitioner.

4. The learned Government Pleader for Services-I submits that if the monetary benefit is given to the petitioner as prayed for by him, the same will be claimed by other similarly situate persons, and moreover the petitioner also did not raise this issue for a sufficiently long period having been reconciled the situation. Therefore, the order of the Tribunal cannot be found fault with.

5. We are unable to agree with the contention raised by the learned Government Pleader. The Government itself has committed while directing the authorities to grant notional promotion with effect from the date when the juniors were promoted, fix the pay of the petitioner notionally in accordance with the orders issued from time to time. The following is the extract of the G.O. in which the monetary benefits were allowed to be given to the petitioner and similarly situate persons:

> ii) That the fixation of pay should be done in accordance with the orders issued from time to time notionally and monetary benefit be allowed to them from 1.3.1979".

It is also not in dispute that the said G.O. has not been withdrawn nor the date giving monetary benefit from 1.3.1979 was cancelled. Under those circumstances the order of the Government has to be given effect to and consequently the petitioner is entitled for monetary benefits from 1.3.1979 till the date of his retirement. Thus, we find that the Tribunal has not properly appreciated this particular aspect.

6. Accordingly the Writ Petition is allowed and the order of the Tribunal is hereby set aside and the petitioner is entitled for monetary benefits from 1.3.1979 till the date of his retirement. No costs.

G.BIKSHAPATHY, J.

14th February, 2005.

P.S.NARAYANA, J.

SSR

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Rule Nisi is made absolute as above. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the 14th day of February, 2005.

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..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner & Director of Agriculture, Government of Andhra Pradesh Near Lal Bahadur Stadium, Hyderabad.
2 The Principal Secretary to Government, Agriculture & Cooperation Department, Government of Andhra Pradesh, Secretariat, Hyderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to G.P. for Services-I, High Court of A.P. Hyderabad. (OUT)

5 2 CD copies.